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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,288	05/05/2006	Ncbojsa Djordjevic	19339-105590	8409

28886 7590 08/22/2007
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EXAMINER

JOHNSON, MATTHEW A

ART UNIT	PAPER NUMBER
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3682

MAIL DATE	DELIVERY MODE
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08/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,288	Applicant(s) DJORDJEVIC ET AL.	
	Examiner Matthew Johnson	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/5/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "DC motor", "cable drive", "two pedal arms", and "a control rod for each pedal arm, each control rod engaging the threaded bore of a bushing in a respective control arm and each control rod having a respective driven gear" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "**means**" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

3. Claim 3 is objected to because of the following informalities: Claim 3 recites the limitation "the extender mechanism includes a control rod for each pedal arm" in line 3. A "control rod" has previously been recited for one of the pedal arms in claim 1. As recited, it is unclear whether the limitation is claiming an additional control rod for the pedal recited in claim 1 as well as a control rod for a second pedal arm. Additionally, claim 3 recites the limitations "each rod engaging the threaded bore of a bushing in a

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respective control arm” and “each control rod having a respective driven gear. As written it is unclear if the limitations are claiming an additional “bushing” and “driven gear” to the features previously claimed in claim 1. The examiner suggests using the terms “first” and “second” to clarify the arrangement and to distinguish the features.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites the limitation “when the driving gear is rotated in a first direction by a driving means” in line 17, and recites the limitation “when the driving gear is rotated in a second direction by a driving means” in line 19. It is unclear if the driving means of line 19 is referring to the same driving means as the one cited in line 17, or if the Applicant intends to claim an additional separate driving means.

7. Claim 5 recites the limitation “driving means gear” in line 1. There is insufficient antecedent basis for this limitation in the claim. Note: Claim 1 recites a “driving gear” and a “driving means” but not a “driving means gear”.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 2, are rejected under 35 U.S.C. 102(b) as being anticipated by Ivan (USP-4,870,871).

Re clm 1: Ivan discloses a control pedal assembly (10) moveable toward and away from a vehicle operator comprising:

- A mounting bracket (30)
- At least one pedal arm (14)
- Pedal carriage (24) to which the pedal arm is pivotally attached (C2 L24-31)
- An extender mechanism (Fig. 1) connected to the mounting bracket and including: at least one extender rod (20) having a threaded portion and a portion (left end of shaft) engaged to a first driven gear (46), the threaded portion of the extender rod engaging a complementary threaded bore in a bushing (22) attached to the pedal carriage, the extender rod being substantially prevent from lateral movement
- A control rod (34) having a threaded portion (38) and a portion (Near 42A, Fig. 2) to engage a second driven gear (42), the threaded portion of the control rod engaging a complementary threaded bore (36A) in a bushing

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(36) attached to the pedal arm, the portion engaging the second driven gear being laterally movable through the second driven gear (Fig. 2) and the end (43) distal the threaded portion actuating a mechanism to be controlled (C2 L45-47)

- A driving gear (52) engaging the first and second driven gears (via 54) such that, when the driving gear is rotated in a first direction by a driving means (56), the pedal carriage is moved toward the mounting bracket and when the driving gear is rotated in a second direction by a driving means (56), the pedal carriage is moved away from the mounting bracket

Re clm 2: Ivan discloses that the extender mechanism includes two extender rods (20 and 50) and the pedal carriage includes two bushings (22 and 58), each bushing having a threaded bore and engaging a different one of the two extender rods (Fig. 1).

Re clm 3: Ivan discloses that the pedal carriage includes two pedal arms (14 and 18) that are pivotally attached to the pedal carriage and the extender mechanism includes a control rod (34 and 52A; see Figs. 3 & 4) for each pedal arm, each control rod engaging the threaded bore of a bushing (36, 60) in a respective control arm (top portion of 14 and 18) and each control rod having a respective drive gear (42, 48).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ivan (USP-4,870,871).

While Ivan does indeed disclose a driving means comprising an electric motor (56), he does not explicitly disclose a DC motor.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to use a driving means comprising a DC motor, since most electrical devices in an automobile draw their power from a conventional 12-volt battery that outputs a direct current. The use of a DC motor would eliminate the need for a DC to AC power inverter.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ivan (USP-4,870,871) in view of Sundaresen (USP-6,516,683).

Ivan discloses all of the claim limitations as described above.

Ivan does not disclose that the driving means gear is a cable drive driven by a DC motor.

Sundaresen discloses driving means gear (22) comprising a cable drive (68) driven by a DC motor (66, Note: electric motor of any suitable type) for the purpose of providing a flexible drive means that can adjust to the movement of the pedals (C10 L17-30).

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It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified the device of Ivan to include a driving means comprising a cable drive driven by a DC motor, as taught by Sundaresen, for the purpose of providing a flexible drive means that can adjust to the movement of the pedals (C10 L17-30).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Johnson whose telephone number is 571-272-7944. The examiner can normally be reached on Monday - Friday 8:30a.m. - 5:00p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJ

MJ 8/18/2007



RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER